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June 1, 2000

VIA HAND DELIVERY

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37201

00-00701

In Re: UNIVERSAL SERVICE GENERIC CONTESTED CASE
Docket No: 97-00888


In Re: PETITION OF AT&T COMMUNICATIONS OF THE SOUTH CENTRAL STATES,
INC. FOR THE CONVENING OF A GENERIC CONTESTED CASE FOR THE
PURPOSE OF ACCESS CHARGE REFORM
Docket No. 97-00889

Dear Mr. Waddell:

Enclosed for filing are the original and fifteen copies of the "Joint Petition of United Telephone-Southeast, Inc. and AT&T Communications of the South Central States, Inc" in the above-referenced dockets. I am also enclosing a check in the amount of \$50.00 to cover the filing fee for both parties.

Copies are being served on all known parties of record.

Yours very truly,


Val Sanford

VS/ghc
Enclosures

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE , TENNESSEE**

**In Re: UNIVERSAL SERVICE GENERIC CONTESTED CASE
 Docket No: 97-00888**

**In Re: PETITION OF AT&T COMMUNICATIONS OF THE SOUTH
 CENTRAL STATES, INC. FOR THE CONVENING OF A
 GENERIC CONTESTED CASE FOR THE PURPOSE OF
 ACCESS CHARGE REFORM
 Docket No. 97-00889**

00-00701

**JOINT PETITION OF UNITED TELEPHONE-SOUTHEAST, INC.
AND AT&T COMMUNICATIONS OF THE SOUTH CENTRAL STATES, INC.**

United Telephone-Southeast, Inc. ("United") and AT&T Communications of the South Central States, Inc. ("AT&T")(jointly "Petitioners") jointly seek approval from the Tennessee Regulatory Authority ("TRA") of a proposal agreed to by Petitioners regarding the two above referenced dockets as they relate to United. The Petitioners submit that their proposal as set forth herein, when approved by the TRA, will resolve all issues pending in the two dockets as to United through at least October 2002 in a manner consistent with the governing statutory policies. Under this proposal, United's access charges will be reduced; rebalancing of United's rates will be accomplished; United will forego any universal service funding until at least October 2002, thereby avoiding any administrative expense; the necessity for considering issues as to the nondiscrimination provisions of Title 65 and the anti-competitive practice provisions of T.C.A. Section 65-5-208(c) will be avoided; no protracted, contested proceedings will be necessary; and the purpose and policies of the governing statutes will be met in a simple, fair and efficacious manner.

BACKGROUND

By the adoption of Chapter 408 of the Public Acts of 1995, the Tennessee General Assembly substantially revised the system for the regulation of telecommunication services and telecommunications services providers. Section 1 of that Act, now codified as TCA Section 65-4-123 declares the policies which the Act implements:

The general assembly declares that the policy of this state is to foster the development of an efficient, technologically advanced, statewide system of telecommunications services by permitting competition in all telecommunications services markets, and by permitting alternative forms of regulation for telecommunications services and telecommunications services providers. To that end, the regulation of telecommunications services and telecommunications services providers shall protect the interests of consumers without unreasonable prejudice or disadvantage to any telecommunications services provider; universal service shall be maintained; and rates charged to residential customers for essential telecommunications services shall remain affordable.

One of the key features of the new system of regulation is the authorization in TCA Section 65-5-209 for incumbent local exchange telephone companies to elect to come under a price regulation plan as therein specified. United so selected and has been and is operating pursuant to such a price regulation plan.

The Universal Service Proceeding

Another key feature of the new system of regulation is TCA Section 65-5-207 which, for the first time, spelled out a statutory basis in Tennessee for universal service. The United States Congress in 1996 adopted the Federal Telecommunications Act of 1996 which substantially revised the Federal policies with respect to the regulation of telecommunications services, including a universal service provision. In order to carry out the statutory policies for universal service, the TRA, pursuant to a petition filed by AT&T, initiated the Universal Service Generic Contested Case Proceeding, Docket No. 97-00888.

In order to establish the basis for the implementation of the statutory policies in Tennessee, the TRA elected, by Order dated August 12, 1997, to conduct its own forward looking cost study for intrastate universal service purposes, and by letter dated August 12, 1997 the TRA notified the Federal Communications Commission ("FCC") of its decision. On October 21, 1997, the TRA approved separating the universal service proceeding into two phases. At a February 17, 1998 Directors' Conference, the TRA decided to establish a phase III for rate rebalancing.

The TRA conducted Phase I USF hearings on December 8 and 9, 1997 for the purpose of determining non-cost issues and the structure of an intrastate Universal Service Fund for non-rural carriers. At the TRA's February 3, 1998 Directors' Conference, as reflected in its interim order dated May 20, 1998 ("First USF Order"), the TRA determined the services to be supported by an

intrastate fund, the revenue benchmark and the guidelines to be issued in establishing the costs for the Tennessee Universal Service Fund.

Pursuant to Notice dated April 9, 1998, Phase II hearings were held beginning on April 15, 1998 and concluding on April 23, 1998. At the TRA's April 20, 1999 Directors' Conference, as reflected in its Interim Order dated September 16, 1999 ("Second USF Order"), the TRA determined among other matters, certain of the inputs to be used in the various cost models, together with directions to the parties in the case to file revised cost studies and revenue benchmark data in compliance with the TRA's Second USF Order. The Petitioners filed such data and cost studies. The universal service proceeding now awaits further action.

The Access Charge Proceeding

The basis and amount of access charges and their relation to universal service have been continuing issues since the introduction of access charges in Tennessee. Therefore, simultaneously with the filing of its petition seeking a generic contested case universal service proceeding, AT&T filed a Petition for a Generic Contested Case for Access Charge Reform, Docket No. 97-00889, pointing out that the two proceedings were interrelated, alleging that the factual, legal and policy bases for the imposition of access charges under the then-present system no longer exist and seeking a new cost-based system. AT&T based its petition on the nondiscrimination provisions of Title 65 and on the prohibition against anti-competitive practices in TCA Section 65-5-208(c).

The requirement that interexchange carriers pay access charges to local exchange carriers in Tennessee began with an Order entered by the Tennessee Public Service Commission ("TPSC") on December 22, 1983, issued in anticipation of the divestiture of the Bell Operating Companies and the granting of a Certificate of Public Convenience and Necessity to AT&T as an interexchange carrier.

As explained by the TPSC in its Order entered March 4, 1985, in Docket No. U-83-7261 In re Investigation Concerning Intrastate Access Charges, access charges were not based on costs, but rather were instituted to replace the revenues formerly received by local exchange carriers from intrastate toll calls under the division of revenues and the separations and settlement process. In subsequent orders, particularly the Megacom Order entered on March 17, 1988, the TPSC from time-to-time modified the level of access charges. By an Order entered on May 25, 1999 in Docket No. 97-00889, the TRA determined certain threshold issues, including: (1) any reduction in access charges should be done in the rate rebalancing phase of the universal service docket; and (2) the TRA has the authority to require a company under a price regulation plan to change its access rate structure.

By their proposal, made in this joint petition, the Petitioners seek to resolve the issues as to United in both the Universal Service Proceeding, Docket No. 97-00888 and the Access Charge Reform Proceeding, Docket No. 97-00889, through at least October 2002, without further delay or the necessity of protracted, contested proceedings.

THE PROPOSAL OF THE JOINT PETITIONERS

The Joint Petitioners in an effort to resolve their differences in a simple, fair and efficacious manner consistent with the governing statutes and the advent of competition have carefully reviewed United's rate structure for switched access and basic services, and have also reviewed the current level of United's access line costs as filed in the Universal Service Docket.

On the basis of that review, United and AT&T agree that access charges must be adjusted. In fact, in the last three years United has implemented access service reductions of \$540,000 effective November 1997 to partially offset increases in non-basic directory assistance charges (see Docket No. 96-01423), and United has recently filed for and implemented switched access charge reductions of \$1,240,000 to offset non-basic service increases (See Docket No. 00-00267) with further reductions planned to the extent they can be accommodated under the pricing parameters of United's price regulation plan. In order to limit the burden on basic services, United has accomplished the access reduction offsets in discretionary non-basic services. The TRA's Second USF Order states "In Phase III of this proceeding, the TRA will consider proposals to reduce rates by the amount of the minimum universal service support, as well as other rate adjustments proposed by the companies." Under the Petitioners' proposal, the Petitioners propose to accomplish the purposes of universal service by means of rebalancing United's rates rather than through creation and administration of a separate fund. Specifically, United plans to

reduce its average intrastate switched access rates through a phased elimination of the tariffed carrier common line charge (CCLC), residual interconnection charge (RIC), and information surcharge and reductions in the access charge local switching rate element. These access reductions will be rebalanced by increases in Basic Service rates and are proposed to be completed no later than October 15, 2002.

United notes that while it has the authority to file for access reductions under its price regulation plan, provided such adjustments can be accommodated under the rules and approved methodology applicable to the plan, such filings are limited in that the offsetting increases in other non-Basic services must be sustainable in the marketplace. Accordingly, the Petitioners seek approval for rate rebalancing under T.C.A. Sections 65-5-207 and 65-5-209 as discussed below. Approval of this Petition will permit the TRA by means of a single determination to address rate rebalancing for United in an efficient manner consistent with the policies of the governing statutes.

If this Petition is approved by the TRA, United will file tariffs no later than September 15, 2001, to be effective October 15, 2001, to lower United's average composite access rate by one cent per minute with offsetting rebalancing adjustments in Basic Service rates. United will file additional tariffs no later than September 15, 2002, to be effective October 15, 2002, to lower United's average composite access rate by an additional penny per minute with Basic Service rate offsets in order to rebalance the impact of the access service reductions. By way of illustration, attached as Exhibit A is a

schedule reflecting the estimated impact of the proposal on Basic Service rates for residential and business customers based on June 1999 data.¹ As Exhibit A indicates, the average increase in basic residential telephone rates based on June 1999 data is approximately fifty cents per month in conjunction with the proposed October 2001 and 2002 rate adjustments, for total rate adjustments of approximately one dollar on basic residential rates.²

Under this proposal, residential and business customers would experience a small increase in rates. However, those rates will clearly remain affordable in today's economy given the fact that the last time residential and business customers of United saw a general increase in basic rates was in 1984 - over fifteen years ago. Furthermore, since interexchange carriers flow through the reduction in access rates, customers who use long distance will obtain a benefit in the form of reduced toll rates. In fact, the increase in basic rates may in many cases be substantially if not totally offset for customers who are toll users, with some high volume toll users experiencing a net decrease in their telephone costs. In addition, the small increase in basic rates and the reduction in access rates and toll charges is consistent with and advances the policies set forth in Tennessee law. The proposal will reduce unwarranted subsidization of United's customers' rates by another provider, is fair to all telecommunications providers, will maintain affordable rates, will protect

¹ Information from United's 1999 Annual Price Regulation filing.

² Exhibit A is for illustrative purposes; for instance, the demand data associated with access and line counts will be different in June 2001 and June 2002.

consumer welfare and preserve universal service and will foster the development of competition -- all objectives set forth in TCA Sections 65-4-123 and 65-5-207(c). Finally, the approval and implementation of this proposal will eliminate any basis for challenging United's access charges pursuant to the nondiscrimination provisions of Title 65 or the prohibition against anti-competitive practices in TCA Sections 65-5-208(c); will not require another line item on the bills of customers as would be required in the implementation of a Universal Service Fund; and avoids the cost of administration of a Universal Service Fund.

**THE TRA HAS THE POWER TO, AND SHOULD, APPROVE
THE PROPOSAL OF THE JOINT PETITIONERS**

Under TCA Sections 65-5-201 and 65-5-203, the TRA has broad power to fix just, reasonable and nondiscriminatory rates for any public utility. The TRA's power to fix rates for incumbent local exchange telephone companies under price regulation is, however, limited by the provisions of TCA Section 65-5-209. Even for companies under price regulation their rates are "subject to such further adjustments as may be made by the authority pursuant to §65-5-207", the universal service statute. As the TRA has already held in the Access Charge Reform Order entered May 25, 1999, "The TRA has the authority to change the access rate structure for price regulated companies pursuant to TCA §65-5-207(c)." In addition, the rates to be charged by companies under price regulation are subject to the non-discrimination provisions of Title 65 and

to the prohibition against anti-competitive practices in TCA Section 65-5-208(c).

The Joint Petitioners by their proposal seek to avoid the necessity for considering issues under the nondiscrimination and anti-competitive practices provisions and to accomplish by their proposal an appropriate rebalancing of United's rates pursuant to the provisions of TCA Section 65-5-207(c).

TCA Section 65-5-207(c) authorizes the TRA to create an alternative universal service mechanism only if that alternative (i) preserves universal service, (ii) protects consumer welfare, (iii) is fair to all telecommunications service providers and (iv) prevents the unwarranted subsidization of any telecommunications service providers' rates by consumers or by another telecommunications service provider.

The Joint Petitioners' proposal is such an alternative mechanism. It functions by eliminating the requirement of Universal Service Fund support for United until at least October 2002.³ The statute does not require that such a "mechanism" be in the form of a separate fund to be distributed. By this proposal, United's universal service requirements are met in a simple, uncomplicated way. Considering each of the four objectives:

- (1) Universal service for United's customers is preserved. Under subsection (a) universal service consists of "residential basic

³ Under subsection (d) the TRA has the power and the duty to monitor and modify any mechanism, and, thus, should circumstances warrant, could modify the treatment of United to assure compliance with statutory requirements.

local exchange telephone service at affordable rates and carrier-of-last-resort obligations.” As illustrated in Exhibit A under this proposal, United’s basic rates will be slightly increased,⁴ but under any standard such rates would remain “affordable.” United would continue to fulfill any carrier-of-last-resort obligations.

- (2) Consumer welfare will be protected. In addition to maintaining affordable basic rates, access charges will be reduced, other rates and services will not be prejudiced, an elaborate administrative system requiring an additional line item on customers' bills will be avoided and competition will be fostered.
- (3) This proposal is fair to all telecommunications service providers. It results in a more realistic and equitable rate structure which is fair to all concerned. Certainly, no telecommunications service provider will be prejudiced.
- (4) Under the existing access charge system, there is at least a serious issue as to whether it results in an unwarranted subsidization by the interexchange carriers and their customers. This proposal would eliminate that issue.

⁴ Subsection (e) provides that nothing in Section 207 shall “require” the raising of residential local exchange telephone service rates, but it does not prohibit such increases, especially as long as such rates remain affordable.

Thus, this proposal meets the objectives stated in TCA Section 65-5-207(c).

TCA Section 65-5-207(c) further provides that to accomplish the stated objectives the TRA shall:

- (1) Restrict recovery from the mechanism by any telecommunications service provider to an amount equal to the support necessary to provide universal service;
- (2) Consider provision of universal service by incumbent local exchange telephone companies and by other telecommunications service providers;
- (3) Order only such contributions to the universal service support mechanism as are necessary to support universal service and fund administration of the mechanism;
- (4) Administer the universal service support mechanism in a competitively neutral manner, and in accordance with established authority rules and federal statutes;
- (5) Determine the financial effect on each universal service provider caused by the creation or a modification of the universal service support mechanism, and rebalance the effect through a one-time adjustment of equal amount to the rates of that provider;
- (6) When ordering a modification, include changes in the cost of providing universal service in the rebalancing required by subdivision (c)(5);
- (7) When performing its duties under subdivisions (c)(5) and (6), order no increase in the rates for any interconnection services; and
- (8) Consider, at a minimum:

(i) The amount by which the embedded cost of providing residential basic local exchange telephone service exceeds the revenue received from the service, including the cost of the carrier-of-last-resort obligation, for both high- and low-density service areas;

(ii) The extent to which rates for residential basic local exchange telephone service should be required to meet the standards of § 65-5-208(c); and

(iii) Intrastate access rates and the appropriateness of such rates as a significant source of universal service support.

Considering each of these requirements:

will revenue cover costs?
(1) United under this proposal is seeking no amount from any fund to support universal service, because it has determined by the adoption of the rate rebalancing proposed here, no such amount will be necessary – at least until October 2002, at which time, if the circumstances warrant, United's requirements could be modified.

(2) No other telecommunications service providers are providing any substantial amount of residential basic local exchange telephone service in United's service area.

(3) By this proposal, no contributions to United are necessary and there will be no administrative cost to fund. Therefore, no contributions would be appropriate.


(4) The proposal is competitively neutral and no administration will be required.

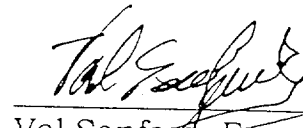
WHEREFORE, United and AT&T respectfully pray that:

1. The TRA after notice and an opportunity for hearing enter an order in each of the subject dockets approving the foregoing proposal and authorizing its implementation.
2. The parties have such other, further and general relief as the justice of their cause may entitle them to receive.

June 1, 2000.

Respectfully submitted,


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Summary of Rebalancing Proposal for Basic Services

		Effective Oct. 15, 2001		Effective Oct. 15, 2002	
Monthly Amount to be Rebalanced Due to Access Reductions		\$ 124,642.35		\$ 112,682.21	
Service Description	Access Lines	Monthly Rebalance \$	Average Per Line	Monthly Rebalance \$	Average Per Line
Residential Services					
<u>Retail Services</u>					
Residential Individual Access Line	155,952	\$ 82,897.27	\$ 0.53	\$ 74,942.80	\$ 0.48
Residential Measured Access Line	315	\$ 100.87	\$ 0.32	\$ 91.20	\$ 0.29
Residence Budget Service	6,762	\$ 1,791.94	\$ 0.27	\$ 1,619.99	\$ 0.24
Foreign Exchange Service - Residential	341	\$ 191.92	\$ 0.56	\$ 173.50	\$ 0.51
Foreign Exchange Service - Residence Budget Service	1	\$ 0.28	\$ 0.28	\$ 0.25	\$ 0.25
Foreign Central Office - Residence	32	\$ 17.03	\$ 0.53	\$ 15.40	\$ 0.48
ISDN-BRI - Residence	220	\$ 117.94	\$ 0.54	\$ 106.62	\$ 0.48
Sprint Solutions - Access Line	8,257	\$ 4,398.59	\$ 0.53	\$ 3,976.52	\$ 0.48
Sub-total Residential Retail Services	171,880	\$ 89,515.84		\$ 80,926.29	
<u>CLEC Services</u>					
Residential Individual Access Line	1,119	\$ 528.84	\$ 0.47	\$ 478.10	\$ 0.43
Foreign Exchange - Residential Individual Line	2	\$ 0.97	\$ 0.48	\$ 0.87	\$ 0.44
Sprint Solutions - Access Line	1	\$ 0.47	\$ 0.47	\$ 0.42	\$ 0.42
Sub-total Residential CLEC Services	1,122	\$ 530.27		\$ 479.39	
Sub-total Residential Services	173,002	\$ 90,046.11		\$ 81,405.68	
Business Services					
<u>Retail Services</u>					
Business Individual Access Line	23,273	\$ 33,076.55	\$ 1.42	\$ 29,902.66	\$ 1.28
Business Measured Access Line	740	\$ 637.03	\$ 0.86	\$ 575.90	\$ 0.78
Foreign Exchange Service - Business	138	\$ 199.31	\$ 1.44	\$ 180.19	\$ 1.31
Foreign Central Office - Business	18	\$ 26.23	\$ 1.46	\$ 23.71	\$ 1.32
ISDN-BRI - Business	308	\$ 162.49	\$ 0.53	\$ 146.89	\$ 0.48
Sub-total Business Retail Services	24,477	\$ 34,101.60		\$ 30,829.36	
<u>CLEC SERVICES</u>					
Business Individual Access Line	385	\$ 484.99	\$ 1.26	\$ 438.45	\$ 1.14
Business Individual Line - Measured	6	\$ 4.49	\$ 0.75	\$ 4.06	\$ 0.68
Foreign Central Office	1	\$ 1.27	\$ 1.27	\$ 1.15	\$ 1.15
Foreign Exchange - Business Individual Line	2	\$ 2.58	\$ 1.29	\$ 2.33	\$ 1.17
ISDN	3	\$ 1.30	\$ 0.43	\$ 1.18	\$ 0.39
Sub-total Business CLEC Services	397	\$ 494.64		\$ 447.17	
Sub-total Business Services	24,874	\$ 34,596.24		\$ 31,276.53	
Total All Services	197,876	\$ 124,642.35		\$ 112,682.21	

Note: All Demand and Calculations Based on June 1999 Data.

CERTIFICATE OF SERVICE

I, Val Sanford, hereby certify that I have served a copy of the foregoing Joint Petition of United Telephone-Southeast, Inc. and AT&T Communications of the South Central States, Inc. to each of the following counsel via U. S. First Class Mail, postage prepaid at the addresses shown below, this 11 day of June, 2000.



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